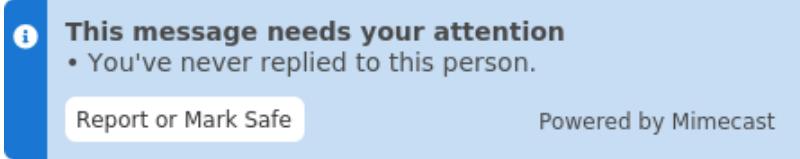


# EXHIBIT A

**From:** Zach Savage  
**To:** Levy, Max I.; Ranieri, Vera; Catherine C. Porto; Alex Frawley; NYT-AI-SG-Service@simplelists.susmangodfrey.com  
**Cc:** OpenAICopyright; openaicopyrightlitigation.lwteam@lw.com; KVP-OAI  
**Subject:** Re: [NYT] Plaintiff's Discovery Motion  
**Date:** Wednesday, June 5, 2024 6:09:05 PM

---

**External Email**



Thanks Max. We are in agreement on issues 2 and 3.

**From:** Levy, Max I. <MLevy@mofo.com>  
**Sent:** Wednesday, June 5, 2024 5:16 PM  
**To:** Zach Savage <ZSavage@susmangodfrey.com>; Ranieri, Vera <VRanieri@mofo.com>; Catherine C. Porto <CPorto@keker.com>; Alex Frawley <AFrawley@susmangodfrey.com>; NYT-AI-SG-Service@simplelists.susmangodfrey.com <NYT-AI-SG-Service@simplelists.susmangodfrey.com>  
**Cc:** OpenAICopyright <OpenAICopyright@mofo.com>; openaicopyrightlitigation.lwteam@lw.com <openaicopyrightlitigation.lwteam@lw.com>; KVP-OAI <KVPOAI@keker.com>  
**Subject:** RE: [NYT] Plaintiff's Discovery Motion

**EXTERNAL Email**

Hi Zach,

Thanks for getting back to us.

**Issue 2:** When OpenAI says that it is willing to collect and produce documents related to “pre-training” and “post-training,” we are intending to cover the entire training process. We don’t see “the training itself” as a separate phase, and we aren’t withholding training-related documents on the grounds that they relate to some other, hypothetical part of the process separate from pre-training or post-training. Accordingly, we believe that, per your email, the parties are in agreement on this issue.

**Issue 3:** OpenAI isn’t sure that there are any responsive non-custodial documents. But if our reasonable investigation shows otherwise, we will collect and produce those documents. With that clarification, do we have an agreement?

**Issue 1:** Understood.

Best,  
Max

**MAX LEVY**

Associate | Morrison & Foerster LLP

755 Page Mill Road | Palo Alto, CA 94304-1018

P: +1 (650) 813-4063

---

**From:** Zach Savage <ZSavage@susmangodfrey.com>  
**Sent:** Wednesday, June 5, 2024 12:59 PM

**To:** Ranieri, Vera <VRanieri@mofo.com>; Catherine C. Porto <CPorto@keker.com>; Alex Frawley <AFrawley@susmangodfrey.com>; Levy, Max I. <MLevy@mofo.com>; NYT-AI-SG-Service@simplelists.susmangodfrey.com  
**Cc:** OpenAICopyright <OpenAICopyright@mofo.com>; openaicopyrightlitigation.lwteam@lw.com; KVP-OAI <KVPOAI@keker.com>  
**Subject:** RE: [NYT] Plaintiff's Discovery Motion

**External Email**

---

Vera,

Thanks for the call and the email.

On Issue 2, can you please confirm that OpenAI will not limit its productions to documents related to “pre-training” and that it will conduct a reasonable search for documents related to all stages of training, including pre-training, the training itself, and post-training. If you can confirm this, then we should have an agreement on Issue 2.

On Issue 3, can you clarify whether OpenAI is also willing to conduct a reasonable search for non-custodial documents concerning Bing Chat and Copilot?

On Issue 1, The Times does not agree to this proposal, particularly because the proposal is limited to training data. The proposal also omits GPT.

Best,  
 Zach

---

**From:** [NYT-AI-SG-Service@simplelists.susmangodfrey.com](mailto:NYT-AI-SG-Service@simplelists.susmangodfrey.com) <NYT-AI-SG-Service@simplelists.susmangodfrey.com>  
**Sent:** Tuesday, June 4, 2024 7:59 PM  
**To:** Catherine C. Porto <[CPorto@keker.com](mailto:CPorto@keker.com)>; Alex Frawley <[AFrawley@susmangodfrey.com](mailto:AFrawley@susmangodfrey.com)>; Levy, Max I. <[MLevy@mofo.com](mailto:MLevy@mofo.com)>; [NYT-AI-SG-Service@simplelists.susmangodfrey.com](mailto:NYT-AI-SG-Service@simplelists.susmangodfrey.com)  
**Cc:** OpenAICopyright <[OpenAICopyright@mofo.com](mailto:OpenAICopyright@mofo.com)>; [openaicopyrightlitigation.lwteam@lw.com](mailto:openaicopyrightlitigation.lwteam@lw.com); KVP-OAI <[KVPOAI@keker.com](mailto:KVPOAI@keker.com)>  
**Subject:** RE: [NYT] Plaintiff's Discovery Motion

**EXTERNAL Email**

Alex, all,

Thanks for meeting earlier today. As discussed, we’re following up in writing with what we discussed on the call regarding the subjects of your letter motion.

**1. Discovery into Specific Large Language Models**

Without conceding relevance, OpenAI is willing to permit inspection of the training data underlying GPT-2 and GPT-3, to the extent it can be found through a reasonably diligent search, if doing so will resolve the dispute. This does not alter the current scope of discovery to include GPT-2 and GPT-3. The agreement here would be without prejudice to any party’s rights. This agreement would also be without prejudice to the right of third parties to object to disclosure of training data on contractual grounds, though we do not presently expect any

such objection to be made with respect to that data.

## 2. Discovery Into the Model Training Process

OpenAI is willing to make all training data (which consists of pre- and post-training data) for GPT-2, GPT-3, GPT-3.5, GPT-3.5 Turbo, GPT-4, and GPT-4 Turbo available for inspection, to the extent it can be found through a reasonably diligent search, if doing so will resolve the dispute. Additionally, OpenAI can confirm that its document production will include documents relevant to the model training process as it relates to training. This agreement would likewise be without prejudice to the right of third parties to object to disclosure of training data on contractual grounds.

## 3. Specific Products

Without conceding relevance, OpenAI is willing to run reasonable search terms and produce non-privileged documents related to Bing Chat and Copilot that are in our possession, custody and control, if doing so will resolve the dispute.

We look forward to hearing back from you.

Thanks,

Vera

---

**From:** Catherine C. Porto <[CPorto@keker.com](mailto:CPorto@keker.com)>

**Sent:** Tuesday, June 4, 2024 12:02 PM

**To:** Alex Frawley <[AFrawley@susmangodfrey.com](mailto:AFrawley@susmangodfrey.com)>; Levy, Max I. <[MLevy@mofo.com](mailto:MLevy@mofo.com)>; [NYT-AI-SG-Service@simplelists.susmangodfrey.com](mailto:NYT-AI-SG-Service@simplelists.susmangodfrey.com)

**Cc:** OpenAICopyright <[OpenAICopyright@mofo.com](mailto:OpenAICopyright@mofo.com)>; [openaicopyrightlitigation.lwteam@lw.com](mailto:openaicopyrightlitigation.lwteam@lw.com); KVP-OAI <[KVPOAI@keker.com](mailto:KVPOAI@keker.com)>

**Subject:** RE: [NYT] Plaintiff's Discovery Motion

### External Email

---

Alex,

Could you please forward the invite to the KVP team?

Thanks,

Catherine

---

### Catherine Porto

Keker, Van Nest & Peters LLP

633 Battery Street

San Francisco, CA 94111-1809

4159628868 direct | 415 391 5400 main

---

**From:** Alex Frawley <[AFrawley@susmangodfrey.com](mailto:AFrawley@susmangodfrey.com)>

**Sent:** Tuesday, June 4, 2024 7:54 AM

**To:** Levy, Max I. <[MLevy@mofo.com](mailto:MLevy@mofo.com)>; [NYT-AI-SG-Service@simplelists.susmangodfrey.com](mailto:NYT-AI-SG-Service@simplelists.susmangodfrey.com)  
**Cc:** OpenAICopyright <[OpenAICopyright@mofo.com](mailto:OpenAICopyright@mofo.com)>; [openaicopyrightlitigation.lwteam@lw.com](mailto:openaicopyrightlitigation.lwteam@lw.com); KVP-OAI <[KVPOAI@keker.com](mailto:KVPOAI@keker.com)>  
**Subject:** RE: [NYT] Plaintiff's Discovery Motion

**[EXTERNAL]**

---

Yes, that works. I'll send an invite.

---

**From:** Levy, Max I. <[MLevy@mofo.com](mailto:MLevy@mofo.com)>  
**Sent:** Tuesday, June 4, 2024 10:51 AM  
**To:** Alex Frawley <[AFrawley@susmangodfrey.com](mailto:AFrawley@susmangodfrey.com)>; [NYT-AI-SG-Service@simplelists.susmangodfrey.com](mailto:NYT-AI-SG-Service@simplelists.susmangodfrey.com)  
**Cc:** OpenAICopyright <[OpenAICopyright@mofo.com](mailto:OpenAICopyright@mofo.com)>; [openaicopyrightlitigation.lwteam@lw.com](mailto:openaicopyrightlitigation.lwteam@lw.com); KVP-OAI <[KVPOAI@keker.com](mailto:KVPOAI@keker.com)>  
**Subject:** RE: [NYT] Plaintiff's Discovery Motion

**EXTERNAL Email**

Hi Alex,

Thanks for getting back to us. We unfortunately aren't available at 3:30ET -- would 4:30ET work for your team?  
We appreciate your flexibility and look forward to discussing.

Best,  
Max

**MAX LEVY**

Associate | Morrison & Foerster LLP  
755 Page Mill Road | Palo Alto, CA 94304-1018  
P: +1 (650) 813-4063

---

**From:** Alex Frawley <[AFrawley@susmangodfrey.com](mailto:AFrawley@susmangodfrey.com)>  
**Sent:** Tuesday, June 4, 2024 7:24 AM  
**To:** Levy, Max I. <[MLevy@mofo.com](mailto:MLevy@mofo.com)>; [NYT-AI-SG-Service@simplelists.susmangodfrey.com](mailto:NYT-AI-SG-Service@simplelists.susmangodfrey.com)  
**Cc:** OpenAICopyright <[OpenAICopyright@mofo.com](mailto:OpenAICopyright@mofo.com)>; [openaicopyrightlitigation.lwteam@lw.com](mailto:openaicopyrightlitigation.lwteam@lw.com); KVP-OAI <[KVPOAI@keker.com](mailto:KVPOAI@keker.com)>  
**Subject:** RE: [NYT] Plaintiff's Discovery Motion

**External Email**

---

Hi Max,

We can meet at 3:30 ET. If that works I can send an invite.

---

**From:** [NYT-AI-SG-Service@simplelists.susmangodfrey.com](mailto:NYT-AI-SG-Service@simplelists.susmangodfrey.com) <[NYT-AI-SG-Service@simplelists.susmangodfrey.com](mailto:NYT-AI-SG-Service@simplelists.susmangodfrey.com)>  
**Sent:** Monday, June 3, 2024 10:02 PM  
**To:** [NYT-AI-SG-Service@simplelists.susmangodfrey.com](mailto:NYT-AI-SG-Service@simplelists.susmangodfrey.com)  
**Cc:** OpenAICopyright <[OpenAICopyright@mofo.com](mailto:OpenAICopyright@mofo.com)>; [openaicopyrightlitigation.lwteam@lw.com](mailto:openaicopyrightlitigation.lwteam@lw.com);

KVP-OAI <[KVPOAI@keker.com](mailto:KVPOAI@keker.com)>  
**Subject:** [NYT] Plaintiff's Discovery Motion

**EXTERNAL Email**

Counsel,

We are in receipt of your discovery motion. As to category 2, we are not sure we are actually at an impasse. First, we have been investigating whether it is feasible to make available for inspection post-training data beyond data related to the Times. We had been planning to send you an email today confirming that we are willing to conduct a reasonable search for that data, and make it available for inspection. That resolves at least part of your motion. Second, as to your broader point about wanting documents about "key aspects of the model training process" (such as the training data collection process, documents about RHLF, etc.), we are searching for and producing many of these documents. I think there may be confusion over the terminology that we are using, which is causing you to believe that our collection and production is narrower than it actually is. Given the pending motion, please provide times tomorrow when you are available for a call, so that we can try to clear up the confusion and narrow, if not eliminate, the dispute.

Best,

Max

**MAX LEVY**

Associate | Morrison & Foerster LLP

755 Page Mill Road | Palo Alto, CA 94304-1018

P: +1 (650) 813-4063

---

This message may be confidential and privileged. Use or disclosure by anyone other than an intended addressee is prohibited. If you received this message in error, please delete it and advise the sender by reply email. Learn about Morrison & Foerster LLP's [Privacy Policy](#).

To unsubscribe from this list please go to <https://simplelists.susmangodfrey.com/subs/>

---

---

This message may be confidential and privileged. Use or disclosure by anyone other than an intended addressee is prohibited. If you received this message in error, please delete it and advise the sender by reply email. Learn about Morrison & Foerster LLP's [Privacy Policy](#).

---

This message may be confidential and privileged. Use or disclosure by anyone other than an intended addressee is prohibited. If you received this message in error, please delete it and advise the sender by reply email. Learn about Morrison & Foerster LLP's [Privacy Policy](#).

To unsubscribe from this list please go to <https://simplelists.susmangodfrey.com/confirm/?u=W2xeQJQpCxkpKlnsTIW4LsE2qwf0N1tn>

---

This message may be confidential and privileged. Use or disclosure by anyone other than an intended addressee is prohibited. If you received this message in error, please delete it and advise the sender by reply email. Learn about Morrison & Foerster LLP's [Privacy Policy](#).